

The Animal Turn – what is it and why now?

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**The *Animal Turn* and the Law –
[1st Annual European Animal Law Conference](#) on 4/5 April 2014, Law
School of the University of Basel,
Switzerland (*Doctoral programme
“Law and Animals” of the Law
School of the University of Basel; in
cooperation with EGALS – EuroGroup
for Animal Law Studies; Max Planck
Institute for Comparative Public Law
and International Law, Heidelberg
Germany*)**

After the linguistic turn and the iconic turn, we have been witnessing an animal turn in the social sciences and the humanities (*cf. Harriet Ritvo, “On the Animal Turn”, Daedalus 136 (2007), pp. 118-122*).

What do we mean by animal turn? We mean an increasing scholarly interest in animals, in the relationships between humans and other animals, and in the role and status of animals in (human) society. The animal turn is an academic focus on animals in new terms and under new premises.

Why now? Because many people know more about animals, and many also mind more. Overall, due to economic development and increasing demand for animal products, the use of animals is being industrialised, and concomitantly, the sheer number of animals exploited and killed worldwide is continuously rising.

Furthermore, information about the consequences of this global animal industry is spreading: the reduction of agricultural surface for the production of (plant) food and grain for human consumption, health problems created by overconsumption of animal products like meat or milk, the destruction of local markets through the influx of industrially produced leftover meat products from the North, the enormous contribution of the animal industry to global warming through its greenhouse gas emissions, the disruption of ecological balance through the over-fertilization by animal waste, the massive overfishing of oceans and lakes, and so on. Also, the general public can easily inform itself about industrial food production – last but not least through the internet: Anybody can watch YouTube videos about industrial animal production processes and will be confronted with its brutal reality, be it the incomplete stunning of cows, the cutting of the beaks of chicken, or the castration of piglets.

It also seems that at least some parts of the public do not only *know* more, but also *care* more – for animals but also for their own health and fitness. Food scandals ranging from the mad cow disease over salmonella in eggs to rotten meat are publicised and engender public debate on the use of animals for food.

Another factor surely is the social isolation, alienation, and anonymity in urban Western societies which brings many humans to rely on companion animals as substitutes for inter-human bonds of family and friendship. Continuously new insights in zoology about the intellectual, emotional, and social capacities of some animals appear to bring those even closer to human society.

In law, the interest in animals seems to be in line with the increasing concern for vulnerable groups (women, ethnic minorities, children, disabled, LGBTs) and the development of refined legal tools to address those concerns. Importantly, the globalisation of the animal industry and the concomitant outsourcing of animal and animal derivative production sites to cheap and low-standard-countries risk to render national animal protection standards meaningless and thus call for a globalisation of those standards, too.

Of course, the scholarly study of animals is far from new. It stretches throughout most of history of science, where animals have been the objects of research in life sciences, or where they served as objects of comparison with and distinction to humans in philosophical anthropology. It is however only in the last decade that animal studies have emerged as a hot topic in the broader academic context. The novel focus on animals marks a significant change not only quantitatively – as demonstrated by the recent explosion of publications, journals, studies, and conferences related to this topic – but also a qualitative shift. Human-animal studies (or animal studies, anthrozoology) start from a genuine interest in the animal and its place in society and manifest a new perception of animals as animal selves, as potential *subjects* as opposed to mere objects of observation, study, and protection.

This recent development has been sparked to a considerable degree by new findings of cognitive ethology, which have brought animals closer to humans than previously acknowledged. Also, the proliferating ethical debate on the moral standing of animals is now applying the principle of equality and justice to the nonhuman

context and is highlighting links between speciesism and intra-human discrimination (racism, sexism, ableism, etc.). The dividing line between humans and other animals is being continuously contested, and has been eroded on biological and ethical grounds over the past decades. The more we know in biology, the bigger the overlap in characteristics of members belonging to our own species and to other species appears. On the other hand, increased biological knowledge sheds light on biological differences especially on the genetic level.

It is of course an altogether different question (and this is the one that should interest legal scholars) which of the commonalities and differences are relevant for ethics and the law. The answer to what extent humans and (other) animals are *morally* different requires a value judgment. At this point, a number of preliminary questions arise, for example how to *justify* (i.e. give reasons for) our choice of a criterion. If no justification is given for limiting the “sphere of justice” to humans (by excluding animals) and for attributing rights to humans (and not to other living beings), if these rights are said to flow from the intrinsic dignity that comes with being human, then such a statement is nothing more but pure speciesism. Is there one single decisive distinguishing criterion or are there several? Is the distinction not rather a cluster of predicates? Do we need to escape the self-bias inherent in our identification of those criteria or is that tailoring to our self-perception and our research questions legitimate?

The dividing line drawn by all sciences and the humanities has proven to be contingent in terms of academic disciplines, culture, and history. Depending on time and place, not only this boundary (as an intellectual construct) moves, but the reasons for placing animals and humans on either side of that boundary move, too. Nevertheless, we submit that insights from the life sciences should inform moral (and legal) reasoning. Philosophical speculation about the essence of “humanness” is not enough. Arguments in favour of international legal codification of animal welfare to some extent depend on substantive evidence about what both humans and other animals are like (physiologically, emotionally, psychologically, socially, and so on). For example, the application of Martha Nussbaum’s capabilities approach to animal rights depends on which capabilities human and non-human animals really have and which they share (Cf. Martha C. Nussbaum, “Beyond ‘Compassion and Humanity’”, in: Cass R. Sunstein and Martha C. Nussbaum (eds), *Animal Rights: Debates and New Directions* (Oxford: OUP 2004), 299-319). Overall, ethological and zoological insights should be one element and starting point of an informed legal debate. We must however keep in mind that, for purposes of the law, the human-animal divide is a social construction.

From this starting point, human-animal studies move forward to explore novel areas of research, examining manifold aspects of the human-animal relationship from different perspectives. The emerging research field draws on a range of academic disciplines and promises new impulses in turn. The animal question has become a comprehensive inquiry into the multifaceted human-animal relationship. Coming from the margins, human-animal studies have the potential to question and deconstruct settled assumptions.

The overall purpose of the Basel conference was to shed light on the significance and implications of this novel academic trend for the law. How do human-animal studies inform legal studies? How does the animal turn translate into law and jurisprudence? This question is particularly relevant with regard to the legal status of animals, and for the conceptualisation of animals and for the human-animal relationship as reflected and shaped by law. Embracing interdisciplinary, innovative, and critical perspectives on current and future animal law, the conference aimed at exploring cutting-edge topics and pointing to new directions in the broader context of law and animals.

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